

Maine Revised Statutes
Title 12: CONSERVATION
Chapter 206-A: USE REGULATION

§685-C. MISCELLANEOUS PROVISIONS

1. Comprehensive land use plan. The commission shall prepare an official comprehensive land use plan, referred to in this subsection as "the plan," for the unorganized and deorganized areas of the State.

The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.

The plan may consist of maps, data and statements of present and prospective resource uses that generally delineate the proper use of resources, and recommendations for its implementation.

The commission shall hold public hearings to collect information to be used in establishing the plan. The public hearings must be conducted according to commission rules adopted in accordance with procedures for the establishment of rules pursuant to Title 5, chapter 375, subchapter 2.

The commission may, on its own motion or petition of any state agency or regional planning commission, hold such other hearings as the commission considers necessary from time to time for the purpose of obtaining information helpful in the determination of its policies, the carrying out of its duties or the formulation of its land use standards or rules.

A. The commission may not finalize a plan or a portion of a plan without:

- (1) Submitting the tentative plan to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days;
- (2) Submitting the tentative plan to the State Planning Office or its successor, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its comments and recommendations, if any, to the commission within 30 days;
- (3) Considering all comments submitted under paragraphs A and B; and
- (4) Submitting the tentative plan to the joint standing committee of the Legislature having jurisdiction over conservation matters and the committee reviewing the plan at a public meeting. The commission shall brief the committee on any anticipated changes to land use districts and subdistricts based on revisions in the comprehensive land use plan and a projected timetable for rulemaking to adopt these changes. [2011, c. 682, §21 (AMD).]

B. [2013, c. 405, Pt. B, §1 (RP).]

B-1. After the commission has finalized a plan or a portion of a plan, but prior to adoption, the commission shall provide a copy to the Commissioner of Agriculture, Conservation and Forestry, who shall submit the finalized plan or a portion of the plan to the Governor for comments. The commissioner shall submit the finalized plan or a portion of the plan including the Governor's comments to the Legislature within 30 days after the convening of the next regular session for approval. The Legislature shall, by act or resolve, approve, disapprove or require changes to the plan or any portion of the plan prior to adjournment. If the plan or a portion of the plan is approved or the Legislature fails to act on the plan or a portion of the plan before adjournment, the plan or a portion of the plan may be finally adopted by the commission. If the plan or a portion of the plan is disapproved or revisions are required, the plan or a portion of the plan must be revised by the commission and resubmitted to the Legislature for approval by act or resolve. The joint standing committee of the Legislature having jurisdiction over conservation matters may submit legislation to implement the provisions of this paragraph. [2013, c. 405, Pt. B, §2 (NEW).]

C. [2013, c. 405, Pt. B, §3 (RP).]

D. [2011, c. 682, §21 (RP).]

This subsection also applies to any alteration in the plan.

[2013, c. 405, Pt. B, §§1-3 (AMD) .]

1-A. Regional comprehensive land use plans. A county, separately or in partnership with another county or counties, may request the commission to develop and implement a regional comprehensive land use plan and associated zoning for all or a portion of the territory within the jurisdiction of the commission in the county or counties making the request. If the commission provides assistance under this subsection, it shall:

A. Consult with regional economic development organizations and regional planning and development districts described in Title 30-A, chapter 119; [2011, c. 682, §22 (NEW).]

B. Seek input from representatives of service center communities as defined in Title 30-A, section 4301, subsection 14-A and neighboring municipalities in the area for which assistance is requested; and [2011, c. 682, §22 (NEW).]

C. Provide for involvement by members of the public, landowners in the unorganized and deorganized areas of the State and residents of the unorganized and deorganized areas of the State. [2011, c. 682, §22 (NEW).]

[2011, c. 682, §22 (NEW) .]

2. Land use guidance and planning manual. The commission shall prepare, maintain and distribute from time to time a land use guidance and planning manual setting forth:

A. A copy of this chapter, together with all amendments thereof and other applicable legislation; [1971, c. 457, §5 (NEW).]

B. Examples of land use planning policies, standards, maps and documents prepared in conformance with the purposes of this chapter; [1971, c. 457, §5 (NEW).]

C. An explanation and illustrative examples of the land use standards and procedures authorized in this chapter; [1971, c. 457, §5 (NEW).]

D. Other explanatory material and data which will aid landowners in the preparation of their plans in conformance with the procedures, rules and standards authorized in this chapter. [1971, c. 457, §5 (NEW).]

The commission shall, from time to time, confer with interested parties with a view toward insuring the maintenance of such manual in the form most useful to those making use of it.

Sections of this manual may be cited in any plan or standard in the same manner as citations of this chapter, and may be incorporated by reference in any plan, standard, rule or regulation.

[1971, c. 457, §5 (NEW) .]

3. Schedule of fees. The commission shall adopt rules in accordance with Title 5, chapter 375, subchapter 2 to establish a schedule of reasonable fees for the administration of this chapter. Amendments to those rules adopted after October 1, 2005 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

No approval, certificate, special exception or variance may be issued unless or until such fees established by the commission have been paid in full, nor may any action be taken on proceedings before the commission unless or until preliminary fees have been paid in full.

[2005, c. 386, Pt. I, §1 (AMD) .]

4. Conservation easements.

[1975, c. 508, §4 (RP) .]

5. Additional powers and duties. In order to implement this chapter, the commission may, in addition to its powers and duties previously authorized in this chapter:

A. Adopt rules to interpret and carry out this chapter in accordance with Title 5, chapter 375, subchapter II, unless otherwise provided by this chapter; [1977, c. 694, §235 (AMD) .]

B. Have the power to compel attendance of witnesses, and require production of evidence; [1971, c. 457, §5 (NEW) .]

C. Designate or establish such regional offices as it deems necessary; [1971, c. 457, §5 (NEW) .]

D. Designate or request other appropriate agencies to receive application, provide assistance, investigations and make recommendations; [1971, c. 457, §5 (NEW) .]

E. By rule allow joint hearings to be conducted with other appropriate agencies; [1971, c. 457, §5 (NEW) .]

F. Execute contracts and other agreements to carry out its purposes. [1971, c. 457, §5 (NEW) .]

[1977, c. 694, §235 (AMD) .]

6. Adjustments of assessing practices. Upon adoption of district boundaries and land use standards, a certified copy of each official land use guidance map, delineating district boundaries, and associated land use standards shall be filed with the State Tax Assessor.

[1971, c. 457, §5 (NEW) .]

7. Time periods. In computing the period of time to perform any act under these rules, the first day on which an act may be performed shall not be included but the last day of the period shall be included unless it is a Saturday, Sunday or holiday in which event the period shall be extended until the next business day.

A holiday is any day appointed as such by the President or Congress of the United States, or the Governor or Legislature of the State of Maine.

[1971, c. 457, §5 (NEW) .]

8. Enforcement, inspection and penalties for violations. Standards, rules and orders issued by the commission pursuant to this chapter have the force and effect of law. No development may be undertaken, except in conformance with this chapter, the standards, rules and orders enacted or issued pursuant to this chapter, and any real estate or personal property existing in violation of such is a nuisance. For the purposes of inspection and to ensure compliance with standards, orders and permits issued or adopted by the commission, authorized commission staff, forest rangers and the state supervisor or consultant personnel may conduct investigations, examinations, tests and site evaluations necessary to verify information presented to it and may obtain access to any lands and structures regulated pursuant to this chapter.

Any person who violates any provision of this chapter, or the terms or conditions of any standards, rules, permits or orders adopted or issued pursuant to this chapter, is subject to a civil penalty, payable to the State, of not more than \$10,000 for each day of the violation.

In addition to the other penalties provided, the commission may, in the name of the State of Maine, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation hereof or of the orders or standards or rules promulgated hereunder. This action may include, but is not limited to, proceedings to revoke or suspend any commission permit or approval, taken either before the

commission itself in accordance with Title 5, section 10004, before the District Court in accordance with Title 4, chapter 5 or, notwithstanding the provisions of Title 4, section 152, subsection 9 or Title 5, section 10051, before the Superior Court as part of an enforcement action brought by the commission.

In addition to any such penalties or remedies provided in this subsection, the court may order restoration of any area affected by any action or inaction found to be in violation of any of the provisions of this chapter or of any order, standard, rule or permit of the commission, or any decree of the court, to the condition of such area prior to the violation. When such restoration is not practicable, the court may order other actions to be taken by the person charged with the violation which are in mitigation of the damage caused by the violation.

A person who willfully or knowingly falsifies any statement contained in a permit application or other information required to be submitted to the commission is in violation of this chapter and subject to the penalties of this chapter.

[1999, c. 547, Pt. B, §27 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

9. Representation in court. The commission may authorize certified employees of the commission to serve civil process and represent the commission in District Court in the prosecution of violations of those laws enforced by the commission and set forth in Title 4, section 152, subsection 6-A. Certification of these employees must be as provided under Title 30-A, section 4453.

[1997, c. 296, §2 (AMD) .]

10. Operating a personal watercraft. Operating a personal watercraft is prohibited on the following categories of great ponds:

A. Great ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission pursuant to subsection 1 as being not accessible within 1/4 mile by 2-wheel drive vehicles, with less than one development unit per mile, and at least one outstanding resource value; [1997, c. 739, §1 (NEW) .]

B. Great ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission as being accessible within 1/4 mile by 2-wheel drive vehicles, with less than one development unit per mile, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character; [1997, c. 739, §1 (NEW) .]

C. Great ponds and smaller ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission as being not accessible within 1/2 mile by 2-wheel drive vehicles, with no more than one noncommercial remote camp and with a cold water game fishery; and [1997, c. 739, §1 (NEW) .]

D. Great ponds with less than all but more than 2/3 of their surface area in or partly in the jurisdiction of the commission that are identified as being of statewide significance in the "Maine Wildlands Lake Assessment" dated June 1, 1987 prepared by the commission, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character and with more than 1/2 of their shoreline in public and private conservation ownership with guaranteed public access for low-impact public recreation. [1997, c. 739, §1 (NEW) .]

The commission shall implement this subsection by rule adopted in accordance with section 685-A. Rules adopted to implement this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

This section does not apply to any waters subject to regulation by the Maine Indian Tribal-State Commission under Title 30, section 6207, subsection 3-A.

[1997, c. 739, §1 (NEW) .]

11. Landowner liability for actions of others. An owner, lessee, manager, easement holder or occupant of premises is not subject to criminal sanctions or civil penalties or forfeitures for a violation of laws or rules enforced by the commission if that person provides substantial credible evidence that the violation was committed by another person other than a contractor, employee or agent of the owner, lessee, manager, easement holder or occupant. This subsection does not prevent the commission or a court from requiring an owner, lessee, manager, easement holder or occupant of premises to remediate or abate environmental hazards or damage or to reimburse the commission for the cost of remediation or abatement. An owner, lessee, manager, easement holder or occupant of premises is subject to criminal sanctions or civil penalties or forfeitures for failure to comply with a lawful administrative order or court order to remediate or abate environmental hazards or damage.

A. The commission shall investigate substantiated allegations by an owner, lessee, manager, easement holder or occupant that the violation was caused by another person. [2001, c. 365, §1 (NEW) .]

B. If an owner, lessee, manager, easement holder or occupant is subjected to criminal sanctions or civil penalties or forfeitures, or if such a person is required to remediate or abate environmental hazards or damage as a result of violations by another person, the owner, lessee, manager, easement holder or occupant has a cause of action against the actual violator to recover all damages and costs, including attorney's fees, incurred in connection with the environmental damage, and all costs, including attorney's fees, incurred in bringing the action to recover. [2001, c. 365, §1 (NEW) .]

[2001, c. 365, §1 (NEW) .]

SECTION HISTORY

1971, c. 457, §5 (NEW). 1971, c. 544, §§28-J (AMD). 1973, c. 569, §§13-15 (AMD). 1975, c. 508, §4 (AMD). 1977, c. 694, §§233-235A (AMD). 1987, c. 368, (AMD). 1987, c. 816, §KK12 (AMD). 1991, c. 688, §1 (AMD). 1997, c. 296, §2 (AMD). 1997, c. 739, §1 (AMD). 1999, c. 547, §B27 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 365, §1 (AMD). 2005, c. 386, §I1 (AMD). 2007, c. 264, §1 (AMD). 2009, c. 375, §1 (AMD). 2011, c. 655, Pt. JJ, §§6, 7 (AMD). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 682, §§21, 22 (AMD). 2013, c. 405, Pt. B, §§1-3 (AMD).

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